

John E. MacDonald (Pa Bar No. 82828)
jmacdonald@constangy.com
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
989 Lenox Drive
Suite 206 (2nd Floor)
Lawrenceville, New Jersey 08648
Telephone: (609) 454-0096
Facsimile: (609) 844-1102

Donald S. Prophete (admitted *pro hac vice*)
dprophete@constangy.com
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
2600 Grand Boulevard, Suite 750
Kansas City, Missouri 64108-4600
Telephone: (816) 472-6400
Facsimile: (816) 472-6401

Steven B. Katz (admitted *pro hac vice*)
skatz@constangy.com
Sarah Kroll-Rosenbaum (admitted *pro hac*
vice)
skroll-rosenbaum@constangy.com
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
2029 Century Park East, Suite 1100
Los Angeles, California 90067
Telephone: (310) 909-7775
Facsimile: (424) 465-6630

Philip J. Smith (admitted *pro hac vice*)
psmith@constangy.com
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
351 California, Suite 200
San Francisco, California 94104
Telephone: (415) 918-3002
Facsimile: (415) 918-3003

Counsel for National Collegiate Athletic Association; Duquesne University; Fairleigh Dickinson University; La Salle University; Monmouth University; The Pennsylvania State University; Rider University; Robert Morris University; Rutgers, The State University of New Jersey; Saint Francis University; Saint Joseph's University; St. Peter's University; Seton Hall University; Temple University; University of Delaware; University of Pittsburgh; and Villanova University

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF PENNSYLVANIA**

LAWRENCE "POPPY" LIVERS,

Plaintiff,

v.

NATIONAL COLLEGIATE ATHLETIC
ASSOCIATION, a/k/a the NCAA, et al.

Defendants.

Civil Action No. 2:17-cv-04271-MMB

**MOTION TO DISMISS AMENDED
COMPLAINT**

Pursuant to Federal Rules of Civil Procedure 12(b)(1) and 12(b)(6), defendants National Collegiate Athletic Association and Villanova University hereby respectfully move this Court to dismiss the above-captioned action for lack of standing and for failure to state a claim upon which relief may be granted, for the reasons set forth in the accompanying memorandum in support of this motion.

Pursuant to E.D. Pa. Local R. Civ. Proc. 7.1(f), defendants request oral argument on this motion.

Dated: June 13, 2017

Respectfully submitted

s/ Steven B. Katz .

John E. MacDonald
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
989 Lenox Drive
Suite 206 (2nd Floor)
Lawrenceville, New Jersey 08648
Telephone: (609) 454-0096
Facsimile: (609) 844-1102

Donald S. Prophete (admitted *pro hac vice*)
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
2600 Grand Boulevard, Suite 750
Kansas City, Missouri 64108-4600
Telephone: (816) 472-6400
Facsimile: (816) 472-6401

Steven B. Katz
Sarah Kroll-Rosenbaum
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP
2029 Century Park East, Suite 1100
Los Angeles, California 90067
Telephone: (310) 909-7775
Facsimile: (424) 465-6630

Phillip J. Smith
CONSTANGY, BROOKS, SMITH &
PROPHETE, LLP

351 California, Suite 200
San Francisco, California 94104
Telephone: (415) 918-3002
Facsimile: (415) 918-3003

Counsel for National Collegiate Athletic Association; Duquesne University; Fairleigh Dickinson University; La Salle University; Monmouth University; The Pennsylvania State University; Rider University; Robert Morris University; Rutgers, The State University of New Jersey; Saint Francis University; Saint Joseph's University; St. Peter's University; Seton Hall University; Temple University; University of Delaware; University of Pittsburgh; and Villanova University

CERTIFICATE OF SERVICE

I hereby certify that on June 13, 2018, the foregoing document was served on counsel by filing via the CM/ECF system, which will send an email notice to registered parties.

s/ Steven B. Katz .

Steven B. Katz
CONSTANGY, BROOKS, SMITH &
PROPHETE, L:LP